

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

COOLMATH.COM, LLC and
Plaintiff,

-v-

COOLMATHGAMES.COM,
MICHAEL GARGIULO and
JOHN DOE

Defendants.

Case No.: 14-cv-4291(LK)(SN)

AFFIDAVIT OF MICHAEL GARGIULO
PURSUANT TO FINAL ORDER AND
JUDGMENT

STATE OF GEORGIA)

COUNTY OF MORGAN)

SS:

I, MICHAEL GARGIULO, declare under penalty of perjury as follows:

1. I am over 18 years of age, am a defendant in the above-entitled action and have personal knowledge of the facts and circumstances set forth herein. I submit this affidavit pursuant to the Final Order And Judgment On Consent For Permanent Injunction And Other Relief Against Defendant Michael Gargiulo; Voluntary Dismissal Of Remaining Claims Pursuant To Fed. R. Civ. P. 41(a) Without Prejudice entered on September 18, 2014 ("Judgment").

2. I am a member of and an officer of A Aron LLC ("A Aron"), and as such, have authority to discuss A Aron's business. A Aron LLC is not a party to the above action, but formerly licensed the domain name <CoolMathGames.com>, associated with the Web site, located at www.coolmathgames.com (the "Website"), identified in the Complaint of Plaintiff Coolmath.com, LLC ("Coolmath"). I thus submit this affidavit upon personal knowledge and from review of the relevant business records of A Aron.

3. On September 18, 2014, pursuant to the Judgment, this Court ordered, *inter alia*, that I "file with the Court and serve upon Coolmath's counsel within 30 days after entry of this Judgment a report in writing under oath setting forth in detail the manner and form in which I complied with [the requirements of the Judgment.]"

4. Since September 16, 2014, neither I, nor A Aron, nor any company, business, venture, partnership or other entity created, owned or controlled in whole or in part by me, has:

- a. operated the Website, or any other video game website, from any domain name which includes "coolmath," or the terms "cool" and "math" or any terms confusingly similar thereto;
- b. used the Prohibited Mark (as defined in the Judgment) in any form or medium, on or in connection with in connection with any goods or services;
- c. made or displayed any statement or representation that is likely to lead the public or the trade to believe that its goods and services are in any manner associated or affiliated with or approved, endorsed, licensed, sponsored, authorized or franchised by or are otherwise connected with Coolmath;
- d. engaged in any other activity constituting unfair competition with Coolmath, or constituting an infringement of the COOLMATH Mark or of Coolmath's rights therein;
- e. applied to register or registered in the United States Patent and Trademark Office, or in any state trademark registry, any mark or design consisting in whole or in part of the Prohibited Mark or otherwise taking any other action designed to give me any claim of rights in or to the COOLMATH Mark; or

- f. aided, assisted or abetted any other party in doing any act prohibited by subparagraphs (a) through (e) above.

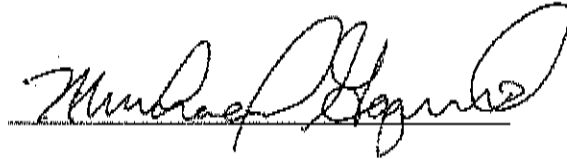
5. Furthermore, on or around September 16, 2014, I located all records, files, documents and data both in my possession and in the possession or control of A Aron that relate to the Website and/or use of the COOLMATH Mark. I have taken the following affirmative steps to preserve both paper documents and electronically stored information that relate to the Website and/or use of the COOLMATH Mark:

- a. I emailed copies of relevant documents, in duplicate, to my personal email addresses maintained by different service providers than which maintained the Website;
- b. I created backup copies of all hard drives on computers used for A Aron's business purposes; and
- c. I created a backup copy of electronic files that resided on the server used for A Aron's business purposes.

6. In accordance with the Judgment, I shall continue to preserve and/or make available upon service of subpoena the above records, files, documents and data.

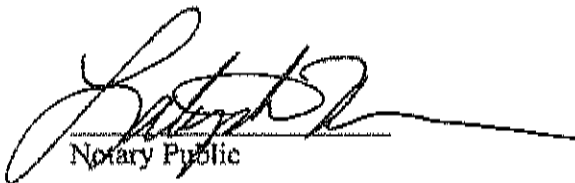
I declare under penalty of perjury that the foregoing is true and correct.

By: MICHAEL GARGIULO



Sworn to before me this

20th day of October 2014


Notary Public

Latysa Y Weaver
Notary Public
Morgan County, Georgia
My Commission Expires January 20, 2015